

ASSEMBLY BILL

No. 1178

**Introduced by Assembly Member Pacheco
(Coauthors: Assembly Members Alanis, Nguyen,
Michelle Rodriguez, and Blanca Rubio)**

February 21, 2025

An act to amend Section 832.7 of the Penal Code, relating to peace officers.

LEGISLATIVE COUNSEL'S DIGEST

AB 1178, as introduced, Pacheco. Peace officers: confidentiality of records.

Existing law, the California Public Records Act, generally requires public records to be open for inspection by the public. Existing law provides numerous exceptions to this requirement. Under existing law, the personnel records of peace officers and custodial officers are confidential and not subject to public inspection. Existing law provides certain exemptions to this confidentiality, including the reports, investigations, and findings of certain incidents involving the use of force by a peace officer. Existing law authorizes an agency to redact the records disclosed for specified purposes including, among others, to remove personal data or information, as specified, and where there is a specific, articulable, and particularized reason to believe that disclosure of the record would pose a significant danger to the physical safety of the peace officer, custodial officer, or another person.

This bill would additionally require a law enforcement agency to redact records to remove the rank, name, photo, or likeness of specified people, including, among others, all duly sworn officers working an undercover assignment or who worked in an undercover assignment in

the past 24 months, all sworn personnel attached to a federal or state task force, and members of a law enforcement agency who received verified death threats to themselves or their families within the last ten years because of their law enforcement employment. By increasing duties on local law enforcement agencies to redact information, this bill would impose a state-mandated local program.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 832.7 of the Penal Code is amended to
2 read:
3 832.7. (a) Except as provided in subdivision (b), the personnel
4 records of peace officers and custodial officers and records
5 maintained by a state or local agency pursuant to Section 832.5,
6 or information obtained from these records, are confidential and
7 shall not be disclosed in any criminal or civil proceeding except
8 by discovery pursuant to Sections 1043 and 1046 of the Evidence
9 Code. This section does not apply to investigations or proceedings
10 concerning the conduct of peace officers or custodial officers, or
11 an agency or department that employs those officers, conducted
12 by a grand jury, a district attorney's office, the Attorney General's
13 office, or the Commission on Peace Officer Standards and Training.
14 (b) (1) Notwithstanding subdivision (a), Section 7923.600 of
15 the Government Code, or any other law, the following peace officer
16 or custodial officer personnel records and records maintained by

1 a state or local agency shall not be confidential and shall be made
2 available for public inspection pursuant to the California Public
3 Records Act (Division 10 (commencing with Section 7920.000)
4 of Title 1 of the Government Code):

5 (A) A record relating to the report, investigation, or findings of
6 any of the following:

7 (i) An incident involving the discharge of a firearm at a person
8 by a peace officer or custodial officer.

9 (ii) An incident involving the use of force against a person by
10 a peace officer or custodial officer that resulted in death or in great
11 bodily injury.

12 (iii) A sustained finding involving a complaint that alleges
13 unreasonable or excessive force.

14 (iv) A sustained finding that an officer failed to intervene against
15 another officer using force that is clearly unreasonable or excessive.

16 (B) (i) Any record relating to an incident in which a sustained
17 finding was made by any law enforcement agency or oversight
18 agency that a peace officer or custodial officer engaged in sexual
19 assault involving a member of the public.

20 (ii) As used in this subparagraph, “sexual assault” means the
21 commission or attempted initiation of a sexual act with a member
22 of the public by means of force, threat, coercion, extortion, offer
23 of leniency or other official favor, or under the color of authority.
24 For purposes of this definition, the propositioning for or
25 commission of any sexual act while on duty is considered a sexual
26 assault.

27 (iii) As used in this subparagraph, “member of the public” means
28 any person not employed by the officer’s employing agency and
29 includes any participant in a cadet, explorer, or other youth program
30 affiliated with the agency.

31 (C) Any record relating to an incident in which a sustained
32 finding was made by any law enforcement agency or oversight
33 agency involving dishonesty by a peace officer or custodial officer
34 directly relating to the reporting, investigation, or prosecution of
35 a crime, or directly relating to the reporting of, or investigation of
36 misconduct by, another peace officer or custodial officer, including,
37 but not limited to, any false statements, filing false reports,
38 destruction, falsifying, or concealing of evidence, or perjury.

39 (D) Any record relating to an incident in which a sustained
40 finding was made by any law enforcement agency or oversight

1 agency that a peace officer or custodial officer engaged in conduct
2 including, but not limited to, verbal statements, writings, online
3 posts, recordings, and gestures, involving prejudice or
4 discrimination against a person on the basis of race, religious creed,
5 color, national origin, ancestry, physical disability, mental
6 disability, medical condition, genetic information, marital status,
7 sex, gender, gender identity, gender expression, age, sexual
8 orientation, or military and veteran status.

9 (E) Any record relating to an incident in which a sustained
10 finding was made by any law enforcement agency or oversight
11 agency that the peace officer made an unlawful arrest or conducted
12 an unlawful search.

13 (2) Records that are subject to disclosure under clause (iii) or
14 (iv) of subparagraph (A) of paragraph (1), or under subparagraph
15 (D) or (E) of paragraph (1), relating to an incident that occurs
16 before January 1, 2022, shall not be subject to the time limitations
17 in paragraph (11) until January 1, 2023.

18 (3) Records that shall be released pursuant to this subdivision
19 include all investigative reports; photographic, audio, and video
20 evidence; transcripts or recordings of interviews; autopsy reports;
21 all materials compiled and presented for review to the district
22 attorney or to any person or body charged with determining
23 whether to file criminal charges against an officer in connection
24 with an incident, whether the officer's action was consistent with
25 law and agency policy for purposes of discipline or administrative
26 action, or what discipline to impose or corrective action to take;
27 documents setting forth findings or recommended findings; and
28 copies of disciplinary records relating to the incident, including
29 any letters of intent to impose discipline, any documents reflecting
30 modifications of discipline due to the Skelly or grievance process,
31 and letters indicating final imposition of discipline or other
32 documentation reflecting implementation of corrective action.
33 Records that shall be released pursuant to this subdivision also
34 include records relating to an incident specified in paragraph (1)
35 in which the peace officer or custodial officer resigned before the
36 law enforcement agency or oversight agency concluded its
37 investigation into the alleged incident.

38 (4) A record from a separate and prior investigation or
39 assessment of a separate incident shall not be released unless it is
40 independently subject to disclosure pursuant to this subdivision.

(5) If an investigation or incident involves multiple officers, information about allegations of misconduct by, or the analysis or disposition of an investigation of, an officer shall not be released pursuant to subparagraph (B), (C), (D), or (E) of paragraph (1), unless it relates to a sustained finding regarding that officer that is itself subject to disclosure pursuant to this section. However, factual information about that action of an officer during an incident, or the statements of an officer about an incident, shall be released if they are relevant to a finding against another officer that is subject to release pursuant to subparagraph (B), (C), (D), or (E) of paragraph (1).

(6) An agency shall redact a record disclosed pursuant to this section only for any of the following purposes:

(A) To remove personal data or information, such as a home address, telephone number, or identities of family members, other than the names and work-related information of peace and custodial officers.

(B) To preserve the anonymity of whistleblowers, complainants, victims, and witnesses.

(C) To protect confidential medical, financial, or other information of which disclosure is specifically prohibited by federal law or would cause an unwarranted invasion of personal privacy that clearly outweighs the strong public interest in records about possible misconduct and use of force by peace officers and custodial officers.

(D) Where there is a specific, articulable, and particularized reason to believe that disclosure of the record would pose a significant danger to the physical safety of the peace officer, custodial officer, or another person.

(E) To remove the rank, name, photo, or likeness of any of the following people:

(i) All duly sworn peace officers working in an undercover assignment, or having worked in an undercover assignment in the past 24 months.

(ii) Sworn personnel attached to a federal or state task force.

(iii) Members of a law enforcement agency, both sworn or non-sworn, who received verified death threats to themselves or their families within the last ten years because of their law enforcement employment.

1 (iv) *Any law enforcement personnel assigned, as designated, to*
2 *gather intelligence on or interdict terrorists.*

3 (v) *Family members of anyone listed in this subparagraph.*

4 (7) Notwithstanding paragraph (6), an agency may redact a
5 record disclosed pursuant to this section, including personal
6 identifying information, where, on the facts of the particular case,
7 the public interest served by not disclosing the information clearly
8 outweighs the public interest served by disclosure of the
9 information.

10 (8) An agency may withhold a record of an incident described
11 in paragraph (1) that is the subject of an active criminal or
12 administrative investigation, in accordance with any of the
13 following:

14 (A) (i) During an active criminal investigation, disclosure may
15 be delayed for up to 60 days from the date the misconduct or use
16 of force occurred or until the district attorney determines whether
17 to file criminal charges related to the misconduct or use of force,
18 whichever occurs sooner. If an agency delays disclosure pursuant
19 to this clause, the agency shall provide, in writing, the specific
20 basis for the agency's determination that the interest in delaying
21 disclosure clearly outweighs the public interest in disclosure. This
22 writing shall include the estimated date for disclosure of the
23 withheld information.

24 (ii) After 60 days from the misconduct or use of force, the
25 agency may continue to delay the disclosure of records or
26 information if the disclosure could reasonably be expected to
27 interfere with a criminal enforcement proceeding against an officer
28 who engaged in misconduct or used the force. If an agency delays
29 disclosure pursuant to this clause, the agency shall, at 180-day
30 intervals as necessary, provide, in writing, the specific basis for
31 the agency's determination that disclosure could reasonably be
32 expected to interfere with a criminal enforcement proceeding. The
33 writing shall include the estimated date for the disclosure of the
34 withheld information. Information withheld by the agency shall
35 be disclosed when the specific basis for withholding is resolved,
36 when the investigation or proceeding is no longer active, or by no
37 later than 18 months after the date of the incident, whichever occurs
38 sooner.

39 (iii) After 60 days from the misconduct or use of force, the
40 agency may continue to delay the disclosure of records or

1 information if the disclosure could reasonably be expected to
2 interfere with a criminal enforcement proceeding against someone
3 other than the officer who engaged in the misconduct or used the
4 force. If an agency delays disclosure under this clause, the agency
5 shall, at 180-day intervals, provide, in writing, the specific basis
6 why disclosure could reasonably be expected to interfere with a
7 criminal enforcement proceeding, and shall provide an estimated
8 date for the disclosure of the withheld information. Information
9 withheld by the agency shall be disclosed when the specific basis
10 for withholding is resolved, when the investigation or proceeding
11 is no longer active, or by no later than 18 months after the date of
12 the incident, whichever occurs sooner, unless extraordinary
13 circumstances warrant continued delay due to the ongoing criminal
14 investigation or proceeding. In that case, the agency must show
15 by clear and convincing evidence that the interest in preventing
16 prejudice to the active and ongoing criminal investigation or
17 proceeding outweighs the public interest in prompt disclosure of
18 records about misconduct or use of force by peace officers and
19 custodial officers. The agency shall release all information subject
20 to disclosure that does not cause substantial prejudice, including
21 any documents that have otherwise become available.

22 (iv) In an action to compel disclosure brought pursuant to
23 Section 7923.000 of the Government Code, an agency may justify
24 delay by filing an application to seal the basis for withholding, in
25 accordance with Rule 2.550 of the California Rules of Court, or
26 any successor rule, if disclosure of the written basis itself would
27 impact a privilege or compromise a pending investigation.

28 (B) If criminal charges are filed related to the incident in which
29 misconduct occurred or force was used, the agency may delay the
30 disclosure of records or information until a verdict on those charges
31 is returned at trial or, if a plea of guilty or no contest is entered,
32 the time to withdraw the plea pursuant to Section 1018.

33 (C) During an administrative investigation into an incident
34 described in paragraph (1), the agency may delay the disclosure
35 of records or information until the investigating agency determines
36 whether the misconduct or use of force violated a law or agency
37 policy, but no longer than 180 days after the date of the employing
38 agency's discovery of the misconduct or use of force, or allegation
39 of misconduct or use of force, by a person authorized to initiate
40 an investigation.

(9) A record of a complaint, or the investigations, findings, or dispositions of that complaint, shall not be released pursuant to this section if the complaint is frivolous, as defined in Section 128.5 of the Code of Civil Procedure, or if the complaint is unfounded.

(10) The cost of copies of records subject to disclosure pursuant to this subdivision that are made available upon the payment of fees covering direct costs of duplication pursuant to subdivision (a) of Section 7922.530 of the Government Code shall not include the costs of searching for, editing, or redacting the records.

(11) Except to the extent temporary withholding for a longer period is permitted pursuant to paragraph (8), records subject to disclosure under this subdivision shall be provided at the earliest possible time and no later than 45 days from the date of a request for their disclosure.

(12) (A) For purposes of releasing records pursuant to this subdivision, the lawyer-client privilege does not prohibit the disclosure of either of the following:

(i) Factual information provided by the public entity to its attorney or factual information discovered in any investigation conducted by, or on behalf of, the public entity's attorney.

(ii) Billing records related to the work done by the attorney so long as the records do not relate to active and ongoing litigation and do not disclose information for the purpose of legal consultation between the public entity and its attorney.

(B) This paragraph does not prohibit the public entity from asserting that a record or information within the record is exempted or prohibited from disclosure pursuant to any other federal or state law.

(13) Notwithstanding subdivision (a) or any other law, an agency that formerly employed a peace officer or custodial officer may, without receiving a request for disclosure, disclose to the public the termination for cause of that officer by that agency for any disclosable incident, including those described in subparagraphs (A) to (E), inclusive, of paragraph (1). Any such disclosure shall be at the discretion of the agency and shall not include any information otherwise prohibited from disclosure. This paragraph is declaratory of existing law.

(c) Notwithstanding subdivisions (a) and (b), a department or agency shall release to the complaining party a copy of the

1 complaining party's own statements at the time the complaint is
2 filed.

3 (d) Notwithstanding subdivisions (a) and (b), a department or
4 agency that employs peace or custodial officers may disseminate
5 data regarding the number, type, or disposition of complaints
6 (sustained, not sustained, exonerated, or unfounded) made against
7 its officers if that information is in a form which does not identify
8 the individuals involved.

9 (e) Notwithstanding subdivisions (a) and (b), a department or
10 agency that employs peace or custodial officers may release factual
11 information concerning a disciplinary investigation if the officer
12 who is the subject of the disciplinary investigation, or the officer's
13 agent or representative, publicly makes a statement they know to
14 be false concerning the investigation or the imposition of
15 disciplinary action. Information may not be disclosed by the peace
16 or custodial officer's employer unless the false statement was
17 published by an established medium of communication, such as
18 television, radio, or a newspaper. Disclosure of factual information
19 by the employing agency pursuant to this subdivision is limited
20 to facts contained in the officer's personnel file concerning the
21 disciplinary investigation or imposition of disciplinary action that
22 specifically refute the false statements made public by the peace
23 or custodial officer or their agent or representative.

24 (f) (1) The department or agency shall provide written
25 notification to the complaining party of the disposition of the
26 complaint within 30 days of the disposition.

27 (2) The notification described in this subdivision is not
28 conclusive or binding or admissible as evidence in any separate
29 or subsequent action or proceeding brought before an arbitrator,
30 court, or judge of this state or the United States.

31 (g) This section does not affect the discovery or disclosure of
32 information contained in a peace or custodial officer's personnel
33 file pursuant to Section 1043 of the Evidence Code.

34 (h) This section does not supersede or affect the criminal
35 discovery process outlined in Chapter 10 (commencing with
36 Section 1054) of Title 6 of Part 2, or the admissibility of personnel
37 records pursuant to subdivision (a), which codifies the court
38 decision in *Pitchess v. Superior Court* (1974) 11 Cal.3d 531.

1 (i) Nothing in this chapter is intended to limit the public's right
2 of access as provided for in Long Beach Police Officers
3 Association v. City of Long Beach (2014) 59 Cal.4th 59.

4 SEC. 2. The Legislature finds and declares that Section 1 of
5 this act, which amends Section 832.7 of the Penal Code, imposes
6 a limitation on the public's right of access to the meetings of public
7 bodies or the writings of public officials and agencies within the
8 meaning of Section 3 of Article I of the California Constitution.
9 Pursuant to that constitutional provision, the Legislature makes
10 the following findings to demonstrate the interest protected by this
11 limitation and the need for protecting that interest:

12 In order to actively protect law enforcement officers that
13 willingly risk their lives in dangerous and uncertain assignments
14 and who face life-threatening situations as they provide the
15 necessary umbrella of protection to the residents of the State of
16 California by their service, it is necessary to limit access to these
17 records.

18 SEC. 3. If the Commission on State Mandates determines that
19 this act contains costs mandated by the state, reimbursement to
20 local agencies and school districts for those costs shall be made
21 pursuant to Part 7 (commencing with Section 17500) of Division
22 4 of Title 2 of the Government Code.